

SENATE RECORD VOTE ANALYSIS

106th Congress
1st Session

Vote No. 214

July 20, 1999, 3:57 p.m.
Page S-8851 Temp. Record

DISAPPROVAL OF VIETNAM NTR (MFN) WAIVER/Motion to Discharge

SUBJECT: A resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam . . . S.J. Res. 28. Smith (NH) motion to discharge.

ACTION: MOTION TO DISCHARGE REJECTED, 5-94

SYNOPSIS: S.J. Res. 28, a resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam, will overturn the President's extension of normal-trade-relations (NTR; formerly called most-favored-nation (MFN)) status to Vietnam. Section 402(c) prohibits granting NTR status to a country that is guilty of certain human rights abuses. The President has authority to waive that section. If the President grants a waiver, Congress may consider a joint resolution, without amendment and under expedited procedures, disapproving that extension.

The Smith motion would discharge S.J. Res. 28 from the Finance Committee and bring it to the Senate floor for debate and a vote, rather than waiting for the resolution to be reported by the Committee after it is passed by the House of Representatives.

Those favoring the motion to discharge contended:

For decades, the policy of the United States has been that it should not give MFN trade status to countries that are guilty of widescale human rights abuses. We support that policy. We add that we should not give MFN status to countries that are militarily aggressive and anti-democratic. Most importantly, we add that we should not give MFN to a country if doing so will hurt our countries political or economic interests. The most important question for this body to ask concerning this issue is, "With whom are we doing business?" Vietnam is a communist state ruled by the same communist autocrats who were in power when the U.S. trading relationship resumed in 1994, and they were the same ones who were in power when 58,000 Americans were killed in the Vietnam War. This is a nation which has still left unresolved many American MIA matters. Vietnam is a country in which people are still denied real freedoms of speech, assembly, religion, and political activity. This country should not be given MFN status.

(See other side)

YEAS (5)		NAYS (94)				NOT VOTING (1)	
Republicans (3 or 5%)	Democrats (2 or 5%)	Republicans (52 or 95%)		Democrats (42 or 95%)		Republicans (0)	Democrats (1)
Campbell	Feingold	Abraham	Hutchinson	Akaka	Kerrey		Kennedy- ²
Helms	Hollings	Allard	Hutchison	Baucus	Kerry		
Smith, Bob (1)		Ashcroft	Inhofe	Bayh	Kohl		
		Bennett	Jeffords	Biden	Landrieu		
		Bond	Kyl	Bingaman	Lautenberg		
		Brownback	Lott	Boxer	Leahy		
		Bunning	Lugar	Breaux	Levin		
		Burns	Mack	Bryan	Lieberman		
		Chafee	McCain	Byrd	Lincoln		
		Cochran	McConnell	Cleland	Mikulski		
		Collins	Murkowski	Conrad	Moynihan		
		Coverdell	Nickles	Daschle	Murray		
		Craig	Roberts	Dodd	Reed		
		Crapo	Roth	Dorgan	Reid		
		DeWine	Santorum	Durbin	Robb		
		Domenici	Sessions	Edwards	Rockefeller		
		Enzi	Shelby	Feinstein	Sarbanes		
		Fitzgerald	Smith, Gordon	Graham	Schumer		
		Frist	Snowe	Harkin	Torricelli		
		Gorton	Specter	Inouye	Wellstone		
		Gramm	Stevens	Johnson	Wyden		
		Grams	Thomas				
		Grassley	Thompson				
		Gregg	Thurmond				
		Hagel	Voinovich				
		Hatch	Warner				

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

Congressional disapproval of the granted waiver authority would help to battle many of the problems in Vietnam by making that country aware that the United States will not be associated with a nation that continues to ignore the basic human rights of its people. Vietnamese people are routinely treated poorly by their own government. The State Department noted in its 1998 Country Reports on Human Rights Practices: "The Socialist Republic of Vietnam is a one-party state rule and controlled by the Vietnamese Communist Party. The Government's human rights record remains poor." The practices have been labeled "poor" by the State Department, yet the rating is supposed to be "good" in order to receive a waiver. The report goes on to say: "There were credible reports that security officials beat detainees. Prison conditions remain harsh. The Government arbitrarily arrested and detained citizens." Our own government officials are making note of the human rights abuses by Vietnam, yet we are going to waive the Jackson-Vanik amendment (the Jackson-Vanik amendment refers to the law that conditions MFN on a country's human rights policies). Is this a country with which we truly desire to be associated or even do business?

Our second point is that the major measure used in the Jackson-Vanik amendment to determine if a country is guilty of human rights abuses is that country's emigration policies. The amendment makes any waiver of a denial of MFN contingent upon the country's improvement of its emigration practices. Vietnam's government, though, continues to create roadblocks to emigration. By law, the President may not use his waiver authority unless he has received assurances that the poor emigration practices of the country in question have been modified to meet the minimal standards of the Jackson-Vanik amendment. In this case, they have not, but the President has granted a waiver anyway.

All we are asking with this motion is that adequate time and opportunity be granted for the presentation of our argument against the waiver of the Jackson-Vanik amendment. Does Vietnam deny its citizens the right to emigrate? Yes. Does it impose more than a nominal tax on emigration and other visas? Yes. Are there known human rights violations? Yes. We can prove it. We urge our colleagues to allow a debate on this floor so that all may have a full understanding of why it is inappropriate for the United States to associate itself with such a country.

Those opposing the motion to discharge contended:

We agree that all human rights violations and emigration restrictions should be stopped. However, we oppose this motion to discharge for three reasons. First, it would be wrong procedurally to act on this matter before the House acts. Second, it would harm United States business and economic interests. Third, it would set back rather than advance progress on human rights and emigration in Vietnam.

First, there is a procedural problem. Under the Constitution, the House of Representatives must initiate all tax, trade, and revenue measures. The Senate has always deferred to the House to take the first action on Jackson-Vanik waivers because they are tax-and-trade measures. We should also consider that not only is the process already underway in the House, but also the House Ways and Means Committee has unfavorably reported the corresponding House resolution.

Next, the United States has massive business and economic interests involved in trade with Vietnam. The Jackson-Vanik waiver has allowed the Overseas Private Investment Corporation (OPIC), the Export-Import Bank (EXIM), and the Department of Agriculture (USDA) to support American businesses in Vietnam. Withdrawing OPIC, EXIM, and USDA guarantees would hurt U.S. businesses and slow the current progress on economic normalization. This would then reinforce the position of hard-liners in Hanoi who believe Vietnam's opening to the West has proceeded too rapidly.

This result leads us to our third and final point, which is that denying NTR status for Vietnam would make matters worse in that country. Giving Vietnam NTR has helped in resolving the problems we have had with Vietnam on emigration. It has had a solid record of progress on this issue since trade has been expanded. Also, the Vietnamese, in response to our willingness to trade, have increased their cooperation in the investigation of unresolved POW and MIA cases. All of this progress would be stopped if hard-liners gained more power in Vietnam.

Before us is a motion that would destroy the progress we have made and hope to continue to make with Vietnam. Though we understand the intentions of our colleagues, their motion is out of order and harmful to our country. Vietnam has made progress. We ought to nurture that progress and not turn back the clock. We strongly urge our colleagues to vote against this motion to discharge.